

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION, LOCAL 40,**

Plaintiff,

v.

**COLUMBIA GRAIN, aka
WILLAMETTE STEVEDORING,**

Defendant.

Case No. 3:13-cv-00513-AC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

Thomas K. Doyle, Bennett Hartman Morris & Kaplan, LLP, 210 S.W. Morrison Street, Suite 500, Portland, OR 97204. Attorney for Plaintiff.

Francis T. Barnwell and Kirk S. Peterson, Bullard Smith Jernstedt Wilson, 200 S.W. Market Street, Suite 1900, Portland, OR 97201. Attorneys for Defendant.

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on October 9, 2013. Dkt. 21. Judge Acosta recommended that (1) Columbia Grain's motion to dismiss (Dkt. 8) be granted without prejudice, and (2) Local 40's request to amend the complaint (Dkt. 15) be granted. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court

shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Acosta’s Findings and Recommendation. Dkt. 21. Defendant Columbia Grain’s motion to dismiss (Dkt. 8) is **GRANTED** without prejudice. Plaintiff Local 40’s request to amend the complaint (Dkt. 15) is **GRANTED**.

IT IS SO ORDERED.

DATED this 17th day of December, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge